IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Criminal Writ Petition No.488 of 2006

Naresh Rameshrao Wankhede
.vrs.
State of Maharashtra and one.

None present for the petitioner,
Mr. A.D.Sonak, APP for the respondents/State.

CORAM : K. J. ROHEE & C. L. PANGARKAR, JJ
DATED : NOVEMBER 28, 2006

P.C.

1. None for the petitioner. Heard Mr. A.D. Sonak, APP for the respondents/State.

2. The petitioner is undergoing sentence of imprisonment. On 10.6.2006 he applied for grant of patrol on account of the death of his sister Sou. Sunanda w/o Dilip Naik. By order dated 18.9.2006 the competent authority rejected his application on the ground that the petitioner is not law abiding; that there is likelihood of his beating the prosecution witnesses who had deposed against him and that when he was released on bail, he committed breach of the condition not to enter village Taroda.

3. The reply filed on behalf of the respondents shows that the husband of Sou.Sunanda and the relatives of her husband committed murder of Sou. Sunanda on 29.5.2006. Crime No. 149/2006 under Sections 302, 201 read with 34 of

IPC was registered at P.S. Chandur Bazar. Thus the fact of the death of Sou. Sunanda (sister of the petitioner) is confirmed by the respondents.

4. Rule 19 of the Prison (Bombay Furlough and Parole) Rules,1959 provides that the person may be released on parole in cases of serious illness or death of his nearest relative or in case of natural calamity. It further provides that no such parole or extension of parole shall be granted without obtaining the police report in all cases **except** in the case of death of his nearest relative.

5. In the present case, the impugned order passed by the competent authority shows that the grounds on which parole was refused are not relevant as per Rule 19. Thus the parole could not have been refused to the petitioner on the grounds on which the same has been refused by the competent authority. The impugned order, therefore, cannot be sustained and will have to be quashed and set aside. Hence the order:

The petition is allowed.

ii) The competent authority is directed to release the petitioner for a period of 15 days on obtaining necessary security.

Iii) The condition to attend P.S. Morshi once in a week i.e. on every Sunday between 10 and 11 a.m. may be imposed on the petitioner.

JUDGE **JUDGE**

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